

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

HANS CARL CLAUSEN and  
GERALDINE OLGA CLAUSEN,

Appellants,

v.

CASE NO. 8:18-cv-3003-T-02  
(Bankr. No. 8:18-bk-679-MGW)

KELLY REMICK  
Chapter 13 Standing Trustee,

Appellee.

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**ORDER**

This cause comes before the Court on Appellants’ motion to proceed on appeal *in forma pauperis* (Dkt. 38) and Appellants’ motion to stay (Dkt. 39). The Court denies both.

On February 14, 2020, Appellants filed a notice of appeal of this Court’s order of February 5, 2020. Dkt. 37. An appeal may not be taken without paying the filing fee “if the trial court certifies in writing that it is not taken in good faith.” *See* 28 U.S.C. § 1915(a)(1)(3). “Good faith” is an objective measure and limited to “appellate review of any issue not frivolous.” *Coppedge v. United States*, 369 U.S. 438, 444–45 (1962). “[A]n IFP action is frivolous, and thus not brought in good faith, if it is ‘without arguable merit either in law or fact.’” *Ghee v. Retailers Nat’l*

*Bank*, 271 F. App'x 858, 859–60 (11th Cir. 2008) (quoting *Bilal v. Driver*, 251 F.3d 1346, 1349 (11th Cir. 2001)); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). “Arguable means capable of being convincingly argued.” *Moreland v. Wharton*, 899 F.2d 1168, 1170 (1990) (quotation omitted).

Having reviewed the record, the Court concludes that Appellants’ appeal of this Court’s order lacks an arguable basis in law or fact. For the reasons stated in that order sought to be appealed, Appellants failed to establish that the bankruptcy court’s dismissal of their action was improper. Any appeal would therefore be frivolous and require denial of a motion seeking pauper status. *See, e.g., In re Rivas*, 682 F. App'x 842, 844 (11th Cir. 2017). Moreover, Appellants also failed to identify any non-frivolous issues to be raised on appeal in the notice of appeal (Dkt. 37). *See Schmitt v. U.S. Office of Pers. Mgmt.*, No. 8:09-cv-943-T-27EAJ, 2009 WL 3417866, at \*2 (M.D. Fla. Oct. 19, 2009) (denying pauper status where notice of appeal failed to identify good faith issue to be presented on appeal).<sup>1</sup>

It is therefore **ORDERED AND ADJUDGED** that Appellants’ appeal from this Court’s order is not taken in good faith, and the motion to proceed on appeal *in forma pauperis* (Dkt. 38) is denied. Any further requests for *in forma pauperis* status should be directed to the United States Court of Appeals for the Eleventh

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<sup>1</sup> Although the financial affidavit indicates a monthly income of \$1122.00 and expenditures of \$2,630.00, the parties’ “home” and “other real estate” value totals \$520,000.00.

Circuit in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

The motion to stay (Dkt. 39) is denied.

**DONE AND ORDERED** at Tampa, Florida, on February 27, 2020.

*s/William F. Jung*

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**WILLIAM F. JUNG**

**UNITED STATES DISTRICT JUDGE**

**COPIES FURNISHED TO:**

Counsel of Record and unrepresented parties